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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/836,135	04/16/2001	Yasushi Hosono	MM4424	581L
1109	7590	03/29/2006	EXAMINER	
ANDERSON, KILL & OLICK, P.C. 1251 AVENUE OF THE AMERICAS NEW YORK,, NY 10020-1182			HINDI, NABIL Z	
			ART UNIT	PAPER NUMBER
			2627	
DATE MAILED: 03/29/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/836,135

Applicant(s)

HOSONO, YASUSHI

Examiner

NABIL Z. HINDI

Art Unit

2627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,3,4 and 6 is/are allowed.
- 6) ☐ Claim(s) 2 and 5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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In response to applicant's amendment dated March 10, 2006. The following action is taken:

Claims 2 and 5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The limitation "identifying that the DVD is a DVD Video is not recorded" is a contradictory limitation. How do you identify a DVD by a name if it is not recorded?

The limitation is interpreted by the examiner as a disk type identifier. The disk identified as a DVD-ROM would not be identified as a DVD-RAM.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ando et al (6530037) in view of JP 11306661.

Ando et al discloses the use of different DVD disks each having a directory name recorded by a file system of ISO 9660 or UDF (see column 34 lines 21-32), determining whether a directory name is recorded on not such as AUDIO-TS, computer data or VIDEO-TS figs 23 and 25 having areas 1008, 1010, 1455 and 1456. However the reference does not explicitly disclose adjusting the playback speed based on DVD type.

The secondary reference discloses the use of a DVD identification wherein the disk rotation (playback speed) is controlled based on the disk type as shown in figs 2 and 3 for the purpose of improving the data read out quality.

It would have been obvious to one skilled in the art at the time the invention was made to use the teachings of the secondary reference and modify the system of the primary reference. Such modification of varying the disk playback speed based on the disk type is within the engineering capability of one skilled in the art in order to optimize the disk rotation with the disk type for the purpose of improving the data read out. Thus one skilled in the art would have been motivated to use the teachings of the secondary reference for the purpose of improved data read out signal.

Claims 1, 3, 4 and 6 are allowed.

Applicant's arguments filed March 10, 2006 have been fully considered but they are not persuasive. Applicant's arguments drawn to the newly added limitation in the claims is moot. The limitation is contradictory since the directory name identifying the DVD as a video, however such is not recorded. Therefore it should not be identified as a DVD video name. The limitation is merely interpreted as a name identifying the disk type DVD, video, DVD audio and computer data which is what is shown in the primary reference.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication should be directed to NABIL Z. HINDI at telephone number (571) 272-7618.


NABIL HINDI
PRIMARY EXAMINER
GROUP 2500